

**NCIP ADMINISTRATIVE ORDER  
NO. 3, S. 2012 (THE REVISED  
GUIDELINES ON FPIC AND  
RELATED PROCESSES**

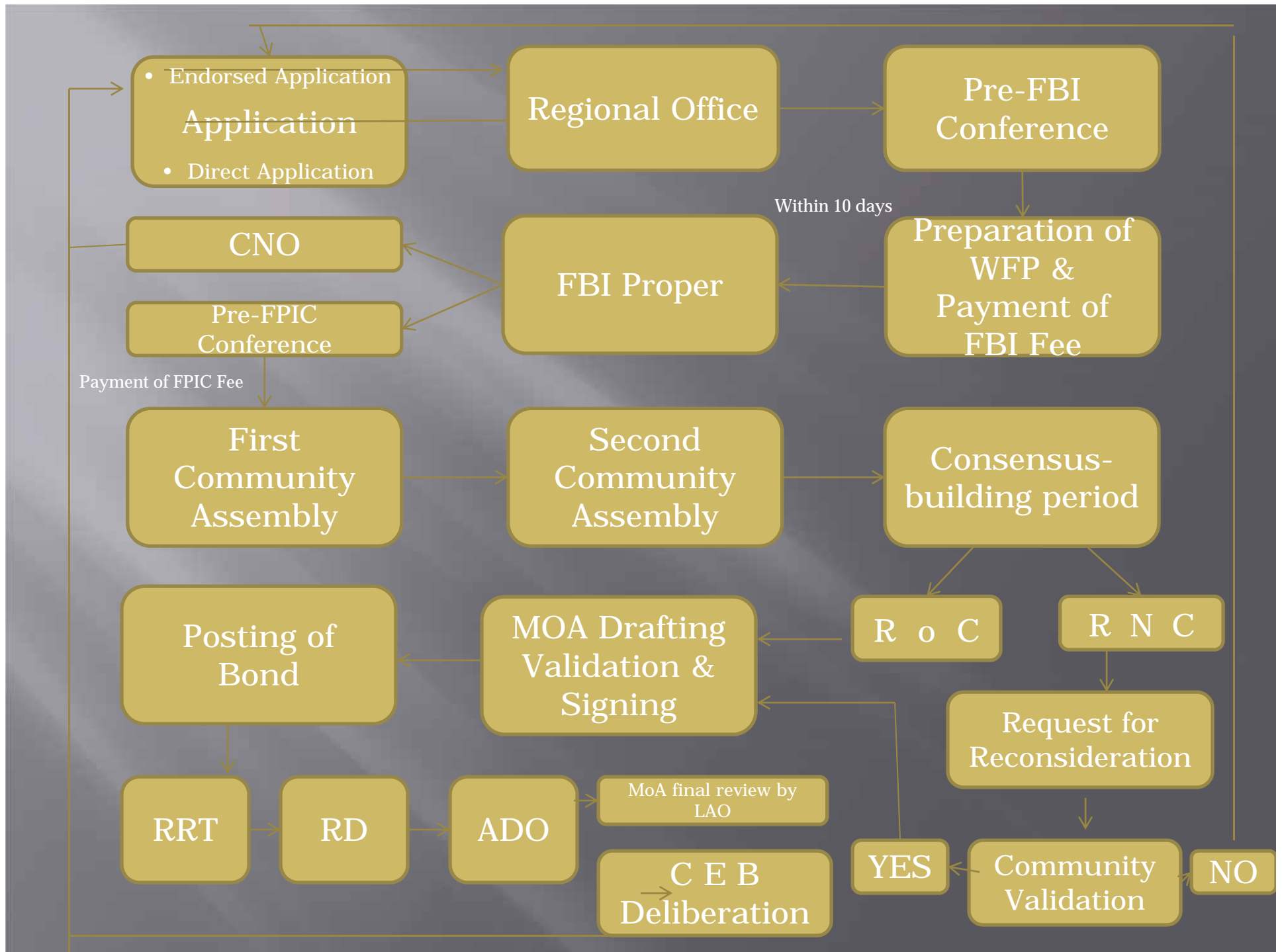
**Atty. Gillian S Dunuan  
National Commission on Indigenous Peoples**

**Energy Investment Forum 2017  
Makati City**

## Extractive, Intrusive, Large Scale, PPPA

1. Exploration, development, exploitation, utilization of land, energy, mineral, forest, water, marine, air, and other natural resources requiring permits, licenses, lease, contracts, concession, or agreements e.g production-sharing agreement, from the appropriate national or local government agencies, including feasibility studies related thereto;
2. Those that may lead to the displacement and/or relocation of ICCs/IPs;

XXX XXX XXX



## Documents required to accompany application

1. Project profile/proposal showing the nature and purpose of the project and its duration;
2. Documents showing project location with an indicative map showing the names of sitios and/or barangays that will be affected;
3. Abstract of proposed project describing the size, pace, reversibility and scope;
4. Preliminary assessment of the likely economic, social, cultural and environmental effects, including potential risks and how these will be addressed;
5. Indicative budget;
6. Persons to be involved in implementation;
7. Operational Plan and activities; and
8. Profile of the applicant.

## Pre-FBI Conference

1. Orientation on the requirements of the FBI process;
2. The identity and other basic information about the applicant;
3. Detailed project profile;
4. Work and Financial Plan; and
5. Other important matters that may be agreed upon

## Contents of WFP

1. Food and snacks, lodging and transportation expenses of those who will be actually involved in the FBI process;
2. Documenting the FBI activities i.e. photo and/or video, cassette recording and development, reproduction of documents; and
3. Others as may be agreed by all the parties during the Pre-FBI/Pre-FPIC conference.

## Pre-FPIC Conference

1. The FBI Report;
2. Finalization and approval of WFP;
3. Deposit/Remittance of FPIC Fee;
4. Setting of schedules and tasking;
5. Preparation of Work Order;
6. Orientation on the FPIC process, protocols, and prohibited acts;
7. Arrangements for the payment of the bond;
8. Submission by the applicant of an undertaking, written in a language spoken and understood by the community concerned, that it shall commit itself to full disclosure of records and information relevant to the plan, program, project or activity, that would allow the community full access to records, documents, material information and facilities pertinent to the same;

## Pre-FPIC Conference

9. Submission by the applicant of an Environmental and Socio-cultural Impact Statement, detailing all the possible impact of the plan, program, project or activity upon the ecological, economic, social and cultural aspect of the community as a whole. Such document shall clearly indicate how adverse effects may be avoided, mitigated and/or addressed;
10. Opinions of invited experts, if any; and
11. Others as may be required by the FPIC team or as may have been surfaced during the conduct of the FBI.



## First Community Assembly

1. Orientation on IPRA and the FPIC process
2. Validation FBI report and the area/s affected
3. The Census of IPs/Migrant IPs/Non-Ips
4. Identification and validation of IP Elders and Leaders
5. Determination of the Decision-making or consensus-building process/es
6. Consensus on the involvement of NGOs/CSOs
7. Validation of the members of the FPIC Team representing the community
8. Presentation of the agreed WFP
9. Option, selection and invitation of independent expert/s to conduct EIA or give their expert opinions
10. Arrangements for conflict/dispute resolution mechanisms by the chosen/elected IP Elders/Leaders
11. Date and place of Second community assembly
12. Other matters that may be necessary and pertinent

## Second Community Assembly

1. Presentation by the applicant of the plan, program, project or activity that it seeks to undertake. The presentation shall include:
  - The Operation Plan and the scope and extent of the proposal;
  - The cost and benefits of the proposal to the ICC/IP and their ancestral domains;
  - The perceived disadvantages or adverse effects to the community; and
  - The measures adopted by the applicant to avoid or mitigate these;
2. Sharing by an expert/s, if engaged or invited, to include presentation of the result of the EIA if available, expert opinion/s on any aspect, recommendation/s, and identification of affected area/s;
3. Remarks or inputs of other stakeholders, e.g. concerned NGAs, LGUs, NGO, IPO;
4. Open forum to give the ICCs/IPs the chance to ask questions and to speak out their concerns relative to the presentations and the project; and
5. Other important matters that are agreed upon during the assembly.

## Contents of MoA

1. Detailed benefit-sharing provisions in accordance with rules and regulations [i.e. not less than 1% royalty under mining act];
2. Development projects based on the development priorities of the community;
3. Monitoring of the implementation MOA to be implemented by NCIP in partnership with LGUs and CSOs. This undertaking shall be paid for by the company;
4. Mitigation and resettlement plans for potential risks ;
5. Redress mechanisms;
6. Clause on the non-transferability of the MOA;
7. Clause for renegotiation of the economic provisions;
8. Whether the concerned ICCs/IPs shall require another FPIC to be conducted in case of merger, reorganization, transfer of rights, acquisition by another entity, or joint venture;

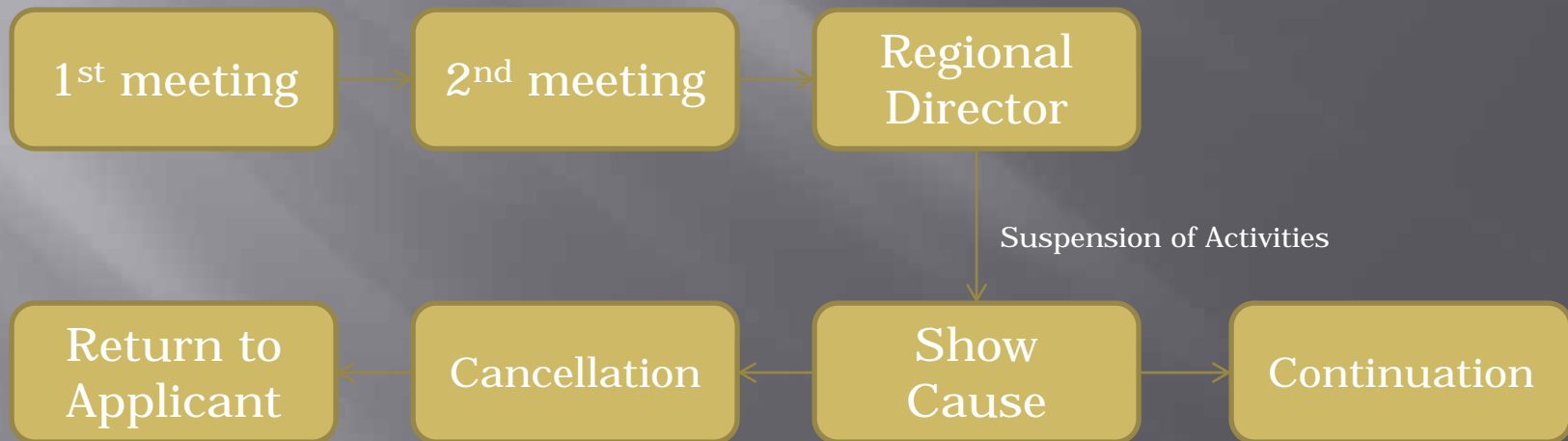
9. List of responsibilities of the company and the affected community
10. Inclusive dates/duration of agreement;
11. Other than what has already been granted by law, the benefits to be derived by the host ICC/IPs indicating the type of benefits, specific target beneficiaries as to sector and number, the period covered, and other pertinent information;
12. Detailed use of all funds to be received by the host ICC/IP communities, ensuring that a portion of such funds shall be allocated for development projects, social services and/or infrastructures in accordance with their development framework and the Guidelines on the Management of Royalty Share and Other Benefits promulgated by the Commission En Banc;
13. Transparency mechanism on transfer and disbursement of funds;

14. Detailed measures to protect IP rights and value systems
15. Detailed measures to conserve/protect any affected portion of the ancestral domain critical for watersheds, mangroves, wildlife sanctuaries, forest cover, and the like;
16. Responsibilities of the applicant as well as the host IP community;
17. The monitoring and evaluation system of the MOA, to include submission of reports and creation of monitoring teams;
18. Remedies and/or penalties for non-compliance or violation of the terms and conditions which includes applicability of customary laws and imposition of sanction/s;
19. Deposit of cash or surety bond mentioned pursuant to Section 23 hereof;

20. Provision to render assistance in the event of calamities/disasters in the community;
21. Provision to undertake a new FPIC Process in case of mining activities, after the exploration stage;
22. Provision on the effects of dormant Certification Precondition;
23. Membership of proponent in organizations requiring ethical standards in a particular line of activity; and
24. Other requirements provided in this Guidelines.

## Abandoned Application

1. Non-appearance in pre-FBI conference
2. Non-appearance in pre-FPIC conference
3. Non-payment of FBI/FPIC fee



Non-extendible period of 10 days

## Inaction from applicant

1. Within 6 months from last FPIC activity = ground for termination of process
2. Non-activity of 1 year from issuance of CP = ground for cancellation



REPUBLIC ACT  
NUMBER 11234

The ENERGY  
VIRTUAL ONE-STOP  
SHOP ACT (EVOSS)

# What is EVOSS?

- ▣ Refers to an online system that allows the coordinated submission and synchronous processing of all required data and information, and provides a single decision-making portal for actions on applications for permits and/or certifications necessary for, or related to, an application of a proponent for new power generation, transmission or distribution projects.
- ▣ The EVOSS shall be under the supervision of the DOE.

## **Scope:**

- ▣ Applies to ALL NEW power generation, transmission, and distribution projects throughout the country and all departments, bureaus, offices, agencies, government-owned and/or controlled corporations (GOCCs), LGUs, and other entities involved in the permitting process of power generation, transmission or distribution projects.**

▣ **Section 15. Indigenous Cultural Communities (ICCs)/Indigenous Peoples (IPs):**

- ▣ **Actions on applications with the NCIP shall be released within ten (10) calendar days in the case of a Certificate of Non-Overlap, and one hundred and five (105) calendar days in the case of Free, Prior and Informed Consent/Certification Pre-Condition. xxx**
  
- ▣ **In the case of a Certification Non-overlap, failure of the NCIP to release such certificate within the specified period shall be deemed approval of the application. In the case of Free, Prior and Informed Consent/Certification Pre-Condition, failure to release such Certification or a Resolution of Non-Consent within the specified period shall be deemed approval of the power generation, transmission, and distribution projects. Xxx**

**Initial proposal re FPIC process flow (NOTE: the process flow covers all CP applications including power generations, transmission and distribution projects as well as mining applications):**

**- 1<sup>st</sup> day: Regional Director issues memo for the constitution of the FPIC team and refer documents to the Provincial Officer within seven (7) days from receipt of application.**

**- 8<sup>th</sup> day: Provincial Officer to constitute FPIC team and inform proponent of schedule of Pre-FPIC conference.**

**- 9<sup>th</sup>-15<sup>th</sup> day: conduct of Pre-FPIC conference where the preparation of Work and Financial Program (WFP) and schedule of activities are done. Failure on the part of the proponent to appear on the agreed period shall cause the archiving of the application and shall stall the running of the 105 period.**

**- 16<sup>th</sup> -25<sup>th</sup> day: The proponent should tender and deposit of FPIC fees. Posting of notices for the assemblies shall be done right away.**

- **26<sup>th</sup> -70<sup>th</sup> day: The conduct of Community assemblies and decision-making, and MOA negotiation and signing or issuance of resolution of non-consent shall take place. Within five (5) days from MOA negotiations, an e-copy of the MOA shall be sent to the LAO for review within seven (7) days from receipt.**
- **71<sup>st</sup>-75<sup>th</sup> day: The Regional Review Team (RRT) shall review the FPIC report which will include compliance. There will be an activity report and executive summary to be prepared and submitted by the FPIC team.**

- **76<sup>th</sup> -82<sup>nd</sup> day: The RD endorses to the ADO inclusive of the period of delivery.**
- **83<sup>rd</sup> -90<sup>th</sup> day: The ADO shall evaluate and validate within 7 days upon receipt of the endorsement. The 7 days shall also include LAO review on the compliance of the initial findings and advisory to the CEB.**



- **91<sup>st</sup> -105<sup>th</sup> day: CEB deliberation/Chairman's approval. The approval and issuance of CP should be done on the same day. The ADO shall prepare template of resolution.**

## **ISSUANCE OF A CERTIFICATE OF NON-OVERLAP**

**The start of counting of 10-day period shall commence when complete set of documents required are submitted. In cases of patently outside ancestral domain, upon projection by the regional Engineer, the regional director shall issue Certificate of Non-Overlap copy furnished the Ancestral Domains Office and ethnographic commissioner, provided that, there is a complete technical description submitted.**